

State of Arizona
Senate
Forty-fifth Legislature
First Regular Session
2001

CHAPTER 100

SENATE BILL 1272

AN ACT

AMENDING SECTIONS 28-7092, 28-7094, 28-7095, 28-7096, 28-7099, 28-7209 AND 41-2501, ARIZONA REVISED STATUTES; RELATING TO DEPARTMENT OF TRANSPORTATION PROPERTY.

(TEXT OF BILL BEGINS ON NEXT PAGE)



1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 28-7092, Arizona Revised Statutes, is amended to
3 read:

4 28-7092. Land acquisition; transportation purposes

5 A. In the name of this state, the director may acquire, either in fee
6 or a lesser estate or interest, real property that the director considers
7 necessary for transportation purposes by purchase, donation, dedication,
8 exchange, condemnation or other lawful means with monies from the state
9 highway fund or any other monies appropriated to the department.

10 B. Property acquired for transportation purposes includes land or any
11 interest in the land necessary for:

12 1. Rights-of-way, campsites, roadside rest areas, water or material
13 needed in the construction, improvement or maintenance of state highways,
14 airports, runways, taxiways or other property under the jurisdiction,
15 possession or control of the department.

16 2. Spoil banks, rock quarries, gravel pits, sand or earth borrow pits.

17 3. Rights-of-way to the place where material required in the
18 construction, improvement or maintenance of state highways, airports, runways
19 or taxiways may be located.

20 4. Offices, shops, maintenance camps, storage yards, inspection or
21 weighing stations or radio transmitter or repeater stations.

22 5. Rights-of-way for access to any location prescribed in this
23 subsection.

24 6. Relocation of existing utility or irrigation facilities and
25 rights-of-way that are required to be relocated to facilitate a
26 transportation purpose.

27 7. LEGAL ACCESS TO PROPERTY ACQUIRED BY THE DIRECTOR THROUGH ADJACENT
28 PROPERTY.

29 8. ENVIRONMENTAL MITIGATION OR BANKING CREDITS, IF NECESSARY TO
30 SATISFY THE REQUIREMENTS OF FEDERAL OR STATE ENVIRONMENTAL LAWS OR
31 REGULATIONS OR REQUIREMENTS TO OBTAIN A PERMIT, GRANT OR RIGHT TO USE
32 PROPERTY FROM A FEDERAL OR STATE AGENCY. FOR THE PURPOSES OF THIS PARAGRAPH:

33 (a) "BANKING CREDITS" MEANS PAYMENT IN LIEU OF COSTS OF ACQUISITION,
34 PRESERVATION OR MAINTENANCE OF HABITAT OR OTHER ENVIRONMENTALLY PROTECTED
35 LOCATIONS.

36 (b) "ENVIRONMENTAL MITIGATION" MEANS REPLACEMENT OF HABITAT OR OTHER
37 ENVIRONMENTALLY PROTECTED LOCATIONS THAT ARE TAKEN FOR OR AFFECTED BY A
38 TRANSPORTATION FACILITY.

39 C. If part of a parcel of land is to be taken for transportation
40 purposes and the remainder is to be left in such shape or condition as to be
41 of little value to its owner or to give rise to claims or litigation
42 concerning severance or other damage, the director may acquire the whole
43 parcel by any means provided in subsection A, and the remainder may be sold,
44 exchanged for other property needed for transportation purposes or used for
45 rights-of-way for relocated utility or irrigation facilities.

1 Sec. 2. Section 28-7094, Arizona Revised Statutes, is amended to read:
2 28-7094. Property acquisition; future needs; highway properties
3 fund; rental revenue

4 A. The authority provided by this article to acquire real property for
5 transportation purposes includes authority to acquire for future needs if the
6 board has an adopted and approved state route plan or airport site location
7 showing a reasonable need for the property.

8 B. The director may:

9 1. EXCEPT AS PROVIDED IN PARAGRAPHS 3 AND 4, lease at fair rental
10 value or for fair consideration allow the use of any land, improvement or
11 portion of land or improvement that is held for transportation purposes and
12 that is not presently needed for these purposes on terms and conditions
13 determined by the director.

14 2. Maintain and care for the property described in paragraph 1 to
15 secure rent from the property on terms consistent with this article.

16 3. IF USED FOR A PUBLIC PURPOSE, ALLOW LOCAL AGENCIES TO USE AND
17 MAINTAIN ANY LAND, IMPROVEMENT OR PORTION OF LAND OR IMPROVEMENT THAT IS HELD
18 FOR TRANSPORTATION PURPOSES AND THAT IS NOT PRESENTLY NEEDED FOR THESE
19 PURPOSES AT FAIR RENTAL VALUE AND ON OTHER TERMS AND CONDITIONS DETERMINED
20 BY THE DIRECTOR. THE DIRECTOR MAY REDUCE THE FAIR RENTAL VALUE BY THE COSTS
21 OF THE MAINTENANCE OF THE LAND OR IMPROVEMENT.

22 4. IF USED FOR A PUBLIC PURPOSE, LEASE TO NONPROFIT ORGANIZATIONS,
23 STATE AGENCIES OR LOCAL AGENCIES ANY HISTORIC PROPERTY THAT IS HELD FOR
24 TRANSPORTATION PURPOSES AND THAT IS NOT PRESENTLY NEEDED FOR THESE PURPOSES
25 AT FAIR RENTAL VALUE AND ON OTHER TERMS AND CONDITIONS DETERMINED BY THE
26 DIRECTOR. THE DIRECTOR MAY REDUCE THE FAIR RENTAL VALUE BY THE COSTS OF THE
27 MAINTENANCE OF THE LAND OR IMPROVEMENT.

28 C. The highway properties fund is established. The director shall
29 deposit, pursuant to sections 35-146 and 35-147, rents received from property
30 acquired in the state highway fund, except that twenty-four per cent of all
31 rents received shall be deposited in the highway properties fund. Net income
32 received from rentals under this section shall be credited to the budgetary
33 item from which the property was acquired.

34 D. If the director determines that any rental revenue collected under
35 this section represents overpayment or payment in duplicate, the director may
36 authorize the refund of the overpayment or payment in duplicate from the
37 highway properties fund and the state highway fund.

38 E. Not later than November 1 next following the close of any fiscal
39 year, the department of administration shall pay the rents deposited in the
40 highway properties fund to the county assessor in the county in which the
41 real property is situated. The director of the department of transportation
42 shall certify to the department of administration the amount of the rentals
43 attributable to each county and shall notify each county of the rental and
44 location of each piece of rental property for which rents are deposited in
45 the fund.

1 F. The county assessor shall distribute any payment received by the
2 county assessor pursuant to this section to the county, to each revenue
3 district for which the county assesses and collects real property taxes or
4 assessments and to every other taxing agency within the county in which the
5 property is situated. The amount distributable to the county and each such
6 revenue district or other taxing agency shall be proportionate to the ratio
7 that the amount of the taxes and assessments of each on similar real property
8 similarly situated within that part of the county embracing the smallest in
9 area of the revenue districts or other taxing agencies other than the county,
10 levied for the fiscal year next preceding, bears to the combined amount of
11 the taxes and assessments of all such districts and agencies, including the
12 county, on such property levied for that year. The county assessor shall
13 determine and certify the amounts distributable to the board of supervisors,
14 and the board shall order the distribution.

15 G. Any monies distributed pursuant to this section to any county,
16 revenue district or other taxing agency shall be deposited to the credit of
17 the same fund as any taxes or assessments on any taxable similar real
18 property similarly situated. If a county receives a payment pursuant to this
19 section of twenty-five dollars or less for any parcel of leased property, all
20 of the payment shall be distributed to the county for deposit in the county
21 general fund.

22 H. The respective jurisdictions may spend the monies received by them
23 under this section for any proper public purpose not prohibited by the state
24 constitution.

25 Sec. 3. Section 28-7095, Arizona Revised Statutes, is amended to read:

26 28-7095. Conveyance of property not needed for transportation
27 purposes

28 A. The director may dispose of real property or any right, title or
29 interest in the real property if the director determines that it is not
30 needed or used for transportation purposes. After the establishment, laying
31 out, substantial completion of a transportation improvement or abolishment
32 of a transportation improvement by formal action of the transportation board,
33 the director may convey the real property or any interest in the real
34 property that was acquired pursuant to this article and that the director
35 determines is not necessary for state transportation purposes.

36 B. Except as provided in section 28-7099, the director may convey the
37 real property described in subsection A of this section to an agency of the
38 federal government, this state or a county, city or town of this state
39 without a public sale if the director considers the conveyance to be in the
40 public interest and if the real property is to be used for such a specific
41 public purpose. IF THE PROPERTY IS NOT USED FOR A HIGHWAY PURPOSE, the
42 agency shall pay the department for the conveyance based on an appraisal
43 within six TWELVE months of the date of conveyance establishing the fair
44 market value of the property to be conveyed. If the property conveyed TO AN
45 AGENCY is to be used for a specific highway purpose, the agency shall

1 reimburse the department for its expenditures for the property. IF THE
2 PROPERTY IS NOT USED FOR A HIGHWAY PURPOSE, THE PROPERTY SHALL REVERT TO THE
3 DEPARTMENT. IF THE DIRECTOR DETERMINES ANY PROPERTY CONVEYED UNDER THIS
4 SECTION IS NEEDED BY THE DEPARTMENT FOR A TRANSPORTATION PURPOSE, THE
5 DEPARTMENT MAY ACQUIRE THE PROPERTY FROM THE AGENCY AT A COST EQUAL TO THE
6 AMOUNT PAID BY THE AGENCY, OR THE FAIR MARKET VALUE AT THE TIME OF THE
7 REPURCHASE BY THE DEPARTMENT, WHICHEVER IS LESS.

8 C. THE DIRECTOR MAY GRANT AN EASEMENT TO A STATE OR LOCAL AGENCY FOR
9 PROPERTY TO BE USED FOR A SPECIFIC HIGHWAY PURPOSE, ON TERMS AND CONDITIONS
10 ACCEPTABLE TO THE DIRECTOR, FOR NO PAYMENT TO THE DEPARTMENT. THE AGENCY
11 SHALL BEAR ALL LIABILITY THAT MAY BE ATTRIBUTED TO THE DEPARTMENT FOR
12 INCIDENTS THAT OCCUR DURING THE PERIOD OF THE EASEMENT AND THE AGENCY SHALL
13 BEAR ALL COSTS OF MAINTAINING THE PROPERTY. IF THE PROPERTY IS NOT USED FOR
14 A HIGHWAY PURPOSE, THE DEPARTMENT MAY TERMINATE THE EASEMENT AS TO ANY
15 PORTION OF THE PROPERTY THAT IS NOT USED FOR A HIGHWAY PURPOSE. THE EASEMENT
16 TERMINATES IF THE DIRECTOR DETERMINES THAT THE PROPERTY IS NEEDED BY THE
17 DEPARTMENT FOR A HIGHWAY PURPOSE.

18 ~~C.~~ D. The director may convey other marketable property to the
19 highest responsible bidder at a public auction or by direct sale ~~or exchange~~
20 after at least thirty days' notice in a newspaper of general circulation in
21 the county in which the property is located. If the director elects to
22 convey property by a direct sale ~~or exchange~~, and receives more than one
23 offer before the termination of the thirty day notice period, the director
24 shall sell the property at public auction. At least one fee appraisal or one
25 in-house appraisal is required for property that is offered to the public.
26 The director shall disclose the amount of the low appraisal before a public
27 auction. If at a public auction the amount of the highest responsible bid
28 does not equal or exceed the amount of the low appraisal, the director shall
29 advise the bidders that the amount of the low appraisal has not been met and
30 shall continue the bidding until the amount of the highest responsible bid
31 equals or exceeds the amount of the low appraisal. If the highest
32 responsible bid does not equal or exceed the amount of the low appraisal, the
33 director shall reject all bids. IF THE DIRECTOR IS UNABLE TO SELL REAL
34 PROPERTY PURSUANT TO THIS SUBSECTION FOR AN AMOUNT THAT EQUALS OR EXCEEDS THE
35 LOW APPRAISAL, THE DIRECTOR MAY CONVEY THE REAL PROPERTY BY DIRECT SALE AFTER
36 AT LEAST THIRTY DAYS' NOTICE IN A NEWSPAPER OF GENERAL CIRCULATION IN THE
37 COUNTY IN WHICH THE REAL PROPERTY IS LOCATED AT AN AMOUNT THAT IS AT LEAST
38 EQUAL TO EIGHTY PER CENT OF THE LOW APPRAISAL, EXCEPT THAT, IF THE DIRECTOR
39 RECEIVES MORE THAN ONE OFFER BEFORE THE TERMINATION OF THE THIRTY DAY NOTICE
40 PERIOD IN AN AMOUNT THAT IS AT LEAST EQUAL TO EIGHTY PER CENT OF THE LOW
41 APPRAISAL, THE DIRECTOR SHALL SELL THE REAL PROPERTY AT PUBLIC AUCTION.

42 E. ~~The~~ A sale PURSUANT TO SUBSECTION B OR D OF THIS SECTION may be
43 made for cash or on terms of at least twenty per cent down with the balance
44 payable in annual OR MONTHLY installments for ten years, and the unpaid
45 balance bears interest at a rate determined by the director.

1 ~~D.~~ F. The director may dispose of property by quitclaim deed to
2 adjacent property owners or the underlying fee owner if the property has no
3 market value or a market NET value of one TEN thousand dollars or less
4 without a public auction or thirty day notice period. THE DIRECTOR MAY
5 NOTIFY ADJACENT PROPERTY OWNERS OR THE UNDERLYING FEE OWNER THAT THE
6 ESTIMATED MARKET VALUE OF THE PROPERTY MAY BE REDUCED BY UP TO TWENTY PER
7 CENT, THAT THE DIRECTOR MAY ACCEPT AN OFFER BETWEEN EIGHTY PER CENT AND ONE
8 HUNDRED PER CENT OF THE ESTIMATED MARKET VALUE AND THAT, IF THE ADJACENT
9 PROPERTY OWNER OR UNDERLYING FEE OWNER IS INTERESTED IN ACQUIRING THE
10 PROPERTY, THE ADJACENT PROPERTY OWNER OR UNDERLYING FEE OWNER MUST SUBMIT A
11 WRITTEN OFFER TO THE DIRECTOR WITHIN SIXTY DAYS AFTER THE DATE OF THE
12 NOTICE. IF THE DIRECTOR DOES NOT RECEIVE AN OFFER WITHIN SIXTY DAYS AFTER
13 THE DATE OF THE NOTICE, THE DIRECTOR MAY DISPOSE OF THE PROPERTY AT THE BEST
14 PRICE THE DIRECTOR CAN OBTAIN FOR THE PROPERTY PURSUANT TO PROCEDURES
15 ESTABLISHED BY THE DIRECTOR. FOR THE PURPOSES OF THIS SUBSECTION, "NET
16 VALUE" MEANS THE ESTIMATED MARKET VALUE OF THE PROPERTY REDUCED BY THE COST
17 TO SELL THE PROPERTY AND THE COST OF CONTINUED MAINTENANCE OF THE PROPERTY.

18 ~~E.~~ G. The director may:

19 1. Execute all deeds or conveyances necessary to convey any real
20 property or interest in the real property to be conveyed under this section
21 and shall sell any real property or interest in real property for the highest
22 responsible bid, the direct sale price or the appraised market value of the
23 property, as applicable.

24 2. Assess a fee for the costs of preparing and executing any
25 conveyance under this section.

26 3. Either:

27 (a) Insert in the deed or conveyance conditions, covenants, exceptions
28 and reservations as the director deems to be in the public interest.

29 (b) Convey in fee simple absolute.

30 ~~F.~~ H. The director shall notify the county assessor and county
31 treasurer of any property disposed of or quitclaimed pursuant to this section
32 within thirty days after the close of escrow. Proper notice includes the
33 legal description of property being conveyed, the name and address of the new
34 property owner and legal description of the conveyed property and the name
35 and address of a person or persons who are identified as the correct
36 recipients of the property tax bill.

37 ~~G.~~ I. It is conclusively presumed in favor of any purchaser for value
38 and without notice of any real property or interest in the real property
39 conveyed pursuant to this section that the department acted within its lawful
40 authority in acquiring the property and that the director acted within the
41 director's lawful authority in executing a deed, conveyance or lease
42 authorized by this article.

43 ~~H.~~ J. The director may contract with a licensed real estate broker
44 to assist in any disposition of property under this section OR PAY A
45 COMMISSION TO A LICENSED REAL ESTATE BROKER WHOSE CLIENT COMPLETES A PURCHASE

1 OF PROPERTY UNDER THIS SECTION. THE DIRECTOR SHALL DETERMINE THE RATE OF
2 COMMISSION PAID TO THE BROKER. The director may pay the licensed real estate
3 broker from proceeds received under this section unless the broker is the
4 purchaser or lessee or the purchaser is another governmental agency.

5 Sec. 4. Section 28-7096, Arizona Revised Statutes, is amended to read:

6 28-7096. Appraisal reports; market analyses

7 A. The director shall justify each acquisition or disposal under this
8 article of real property with an estimated value of more than two thousand
9 five hundred FIFTY THOUSAND dollars by at least one appraisal report that is
10 of sufficient scope to document and justify the economic basis for the
11 acquisition or disposal.

12 B. The director may acquire or dispose of real property valued at two
13 thousand five hundred FIFTY THOUSAND dollars or less after the value has been
14 estimated and justified by a market analysis based on comparable sales.

15 Sec. 5. Section 28-7099, Arizona Revised Statutes, is amended to read:

16 28-7099. Property repurchase; right of first refusal

17 A. If property is acquired for transportation purposes by agreement
18 of the parties before the filing of a condemnation action or by stipulation
19 before judgment in the condemnation action, the deed transferring the
20 property shall contain a provision authorizing PROVIDE the original owner or
21 the original owner's heirs to repurchase WITH A RIGHT OF FIRST REFUSAL TO
22 ACQUIRE the property if the director determines that the property is not
23 needed or used for transportation purposes at a purchase price equal to the
24 CURRENT MARKET VALUE OF THE PROPERTY. price paid by the department to acquire
25 the property plus interest calculated for each month or portion of a month
26 that the department owns the land as provided for in this section. The
27 interest to be paid if the property is repurchased is simple interest
28 computed at the prime rate charged by banks on short-term business loans as
29 determined for publication in the bulletin of the board of governors of the
30 federal reserve system as of the first day of the month.

31 B. The right of repurchase FIRST REFUSAL expires on the earlier of
32 eight years after the date of recording the deed to the property from the
33 original owner or ninety SIXTY days after the director's determination that
34 the property is not needed or used for transportation purposes. IF A DEED
35 TRANSFERRING THE PROPERTY WAS EXECUTED BEFORE THE EFFECTIVE DATE OF THIS
36 AMENDMENT TO THIS SECTION AND PROVIDES FOR THE RIGHT OF REPURCHASE, THE RIGHT
37 OF REPURCHASE EXPIRES ON THE EARLIER OF EIGHT YEARS AFTER THE DATE OF
38 RECORDING THE DEED TO THE PROPERTY FROM THE ORIGINAL OWNER OR NINETY DAYS
39 AFTER THE DIRECTOR'S DETERMINATION THAT THE PROPERTY IS NOT NEEDED OR USED
40 FOR TRANSPORTATION PURPOSES. AN ORIGINAL OWNER OR AN ORIGINAL OWNER'S HEIR
41 WHO HAS A RIGHT TO REPURCHASE MAY ELECT TO USE EITHER THE RIGHT TO REPURCHASE
42 OR THE RIGHT OF FIRST REFUSAL.

43 C. If the director determines that the property is not needed or used
44 for transportation purposes, if the deed transferring the property contains
45 a RIGHT OF FIRST REFUSAL provision for repurchase and if the right of

1 repurchase FIRST REFUSAL has not expired, the director shall offer the
2 property to the original owner or the original owner's heirs at a price
3 determined pursuant to this section. If the original owner or the original
4 owner's heirs accept the offer within ninety SIXTY days after the director
5 determines that the property is no longer needed or used for transportation
6 purposes, the director shall issue a quitclaim deed to the property on
7 payment of the price. A quitclaim deed issued under this section or any deed
8 or other document evidencing abandonment or sale by the director creates a
9 presumption of compliance with the requirements of this section relating to
10 the right of repurchase of the property by FIRST REFUSAL OF the original
11 owner or the original owner's heirs and is conclusive evidence of meeting the
12 requirements of this section in favor of purchasers and encumbrancers for
13 value and without actual notice. Knowledge of the grantor shall not be
14 imputed to the grantee.

15 Sec. 6. Section 28-7209, Arizona Revised Statutes, is amended to read:

16 28-7209. Vacated or abandoned highway; affected jurisdiction;
17 procedure

18 A. If the board vacates or abandons a portion of a state route or
19 state highway pursuant to section 28-304, the board shall:

20 1. Vacate or abandon the portion of the route or highway in
21 cooperation with an affected jurisdiction and in full recognition of the
22 financial and administrative impacts of the changes on the affected
23 jurisdiction.

24 2. Provide four years' advance notice to the affected jurisdiction,
25 EXCEPT AS PROVIDED IN PARAGRAPH 3 AND except that, by mutual agreement, the
26 board and the affected jurisdiction may waive this requirement for
27 notification.

28 3. PROVIDE AT LEAST ONE HUNDRED TWENTY DAYS' ADVANCE NOTICE TO THE
29 AFFECTED JURISDICTION FOR THE ABANDONMENT OF NEW STREET IMPROVEMENTS SUCH AS
30 CUL-DE-SACS AND RECONNECTIONS OF EXISTING STREETS RESULTING FROM HIGHWAY
31 PROJECTS.

32 B. Before a paved highway is vacated or abandoned, the pavement before
33 the vacating or abandonment shall be in such a condition that additional
34 surface treatment and major maintenance of the highway are not required for
35 at least five years, unless the board and the affected jurisdiction agree to
36 waive the requirement of this subsection.

37 Sec. 7. Section 41-2501, Arizona Revised Statutes, is amended to read:

38 41-2501. Applicability

39 A. This chapter applies only to procurements initiated after January
40 1, 1985 unless the parties agree to its application to procurements initiated
41 before that date.

42 B. This chapter applies to every expenditure of public monies,
43 including federal assistance monies except as otherwise specified in section
44 41-2637, by this state, acting through a state governmental unit as defined
45 in this chapter, under any contract, except that this chapter does not apply

1 to either grants as defined in this chapter, or contracts between this state
2 and its political subdivisions or other governments, except as provided in
3 chapter 24 of this title and in article 10 of this chapter. This chapter
4 also applies to the disposal of state materials. Nothing in this chapter or
5 in rules adopted under this chapter shall prevent any state governmental unit
6 or political subdivision from complying with the terms and conditions of any
7 grant, gift, bequest or cooperative agreement.

8 C. All political subdivisions and other local public agencies of this
9 state may adopt all or any part of this chapter and the rules adopted
10 pursuant to this chapter.

11 D. The Arizona board of regents, the legislative and judicial branches
12 of state government and the state compensation fund are not subject to the
13 provisions of this chapter except as prescribed in subsection E of this
14 section.

15 E. The Arizona board of regents and the judicial branch shall adopt
16 rules prescribing procurement policies and procedures for themselves and
17 institutions under their jurisdiction. The rules must be substantially
18 equivalent to the policies and procedures prescribed in this chapter.

19 F. The Arizona state lottery commission is exempt from the provisions
20 of this chapter for procurement relating to the design and operation of the
21 lottery or purchase of lottery equipment, tickets and related materials. The
22 executive director of the Arizona state lottery commission shall adopt rules
23 substantially equivalent to the policies and procedures in this chapter for
24 procurement relating to the design and operation of the lottery or purchase
25 of lottery equipment, tickets or related materials. All other procurement
26 shall be as prescribed by this chapter.

27 G. The Arizona health care cost containment system administration is
28 exempt from the provisions of this chapter for provider contracts pursuant
29 to section 36-2904, subsection A and contracts for goods and services
30 including program contractor contracts pursuant to title 36, chapter 29,
31 articles 2 and 3. All other procurement, including contracts for the
32 statewide administrator of the program pursuant to section 36-2903,
33 subsection C, shall be as prescribed by this chapter.

34 H. Arizona industries for the blind is exempt from the provisions of
35 this chapter for purchases of finished goods from members of national
36 industries for the blind and for purchases of raw materials for use in the
37 manufacture of products for sale pursuant to section 41-1972. All other
38 procurement shall be as prescribed by this chapter.

39 I. Arizona correctional industries is exempt from the provisions of
40 this chapter for purchases of raw materials, components and supplies that are
41 used in the manufacture or production of goods or services for sale entered
42 into pursuant to section 41-1622. All other procurement shall be as
43 prescribed by this chapter.

44 J. The state transportation board and the director of the department
45 of transportation are exempt from the provisions of this chapter other than

1 section 41-2586 for the procurement of construction or reconstruction,
2 including engineering services, of transportation facilities or highway
3 facilities AND ANY OTHER SERVICES THAT ARE DIRECTLY RELATED TO LAND TITLES,
4 APPRAISALS, REAL PROPERTY ACQUISITION, RELOCATION, PROPERTY MANAGEMENT OR
5 BUILDING FACILITY DESIGN AND CONSTRUCTION FOR HIGHWAY DEVELOPMENT AND THAT
6 ARE REQUIRED PURSUANT TO TITLE 28, CHAPTER 20.

7 K. The Arizona highways magazine is exempt from the provisions of this
8 chapter for contracts for the production, promotion, distribution and sale
9 of the magazine and related products and for contracts for sole source
10 creative works entered into pursuant to section 28-7314, subsection A,
11 paragraph 5. All other procurement shall be as prescribed by this chapter.

12 L. The secretary of state is exempt from the provisions of this
13 chapter for contracts entered into pursuant to section 41-1012 to publish and
14 sell the administrative code. All other procurement shall be as prescribed
15 by this chapter.

16 M. The provisions of this chapter are not applicable to contracts for
17 professional witnesses if the purpose of such contracts is to provide for
18 professional services or testimony relating to an existing or probable
19 judicial proceeding in which this state is or may become a party or to
20 contract for special investigative services for law enforcement purposes.

21 N. The head of any state governmental unit, in relation to any
22 contract exempted by this section from the provisions of this chapter, has
23 the same authority to adopt rules, procedures or policies as is delegated to
24 the director pursuant to this chapter.

25 O. Agreements negotiated by legal counsel representing this state in
26 settlement of litigation or threatened litigation are exempt from the
27 provisions of this chapter.

28 P. The provisions of this chapter are not applicable to contracts
29 entered into by the department of economic security with a provider licensed
30 or certified by an agency of this state to provide child day care services
31 or with a provider of family foster care pursuant to section 8-503 or 36-554,
32 to contracts entered into with area agencies on aging created pursuant to the
33 older Americans act of 1965 (P.L. 89-73; 79 Stat. 218; 42 United States Code
34 section SECTIONS 3001 through 3058ee) or to contracts for services pursuant
35 to title 36, chapter 29, article 2.

36 Q. The department of health services may not require that persons with
37 whom it contracts follow the provisions of this chapter for the purposes of
38 subcontracts entered into for the provision of the following:

- 39 1. Mental health services pursuant to section 36-189, subsection B.
- 40 2. Services for the seriously mentally ill pursuant to title 36,
41 chapter 5, article 10.
- 42 3. Drug and alcohol services pursuant to section 36-141.
- 43 4. Domestic violence services pursuant to title 36, chapter 30,
44 article 1.

1 R. The department of health services is exempt from the provisions of
2 this chapter for contracts for services of physicians at the Arizona state
3 hospital.

4 S. Contracts for goods and services approved by the fund manager of
5 the public safety personnel retirement system are exempt from the provisions
6 of this chapter.

7 T. The Arizona department of agriculture is exempt from this chapter
8 with respect to contracts for private labor and equipment to effect cotton
9 or cotton stubble plow-up pursuant to rules adopted under title 3, chapter
10 2, article 1. On or before September 1 each year the director of the Arizona
11 department of agriculture shall establish and announce costs for each acre
12 of cotton or cotton stubble to be abated by private contractors.

13 U. The Arizona state parks board is exempt from the provisions of this
14 chapter for purchases of guest supplies and items for resale such as food,
15 linens, gift items, sundries, furniture, china, glassware and utensils for
16 the facilities located in the Tonto natural bridge state park.

17 V. The Arizona state parks board is exempt from the provisions of this
18 chapter for the purchase, production, promotion, distribution and sale of
19 publications, souvenirs and sundry items obtained and produced for resale.

20 W. The Arizona state schools for the deaf and the blind are exempt
21 from the provisions of this chapter when purchasing products through a
22 cooperative that is organized and operates in accordance with state law if
23 such products are not available on a statewide contract and are related to
24 the operation of the schools or are products for which special discounts are
25 offered for educational institutions.

26 X. Expenditures of monies in the morale, welfare and recreational fund
27 established by section 26-153 are exempt from the provisions of this chapter.

28 Y. The state department of corrections is exempt from the provisions
29 of this chapter for purchases of food commodities to be used in the
30 preparation of meals for inmates. All other procurement shall be as
31 prescribed by this chapter.

32 Z. Notwithstanding section 41-2534, the director of the state
33 department of corrections may contract with local medical providers in
34 counties with a population of less than four hundred thousand persons
35 according to the most recent United States decennial census for the following
36 purposes:

37 1. To acquire hospital and professional medical services for inmates
38 who are incarcerated in state department of corrections facilities that are
39 located in those counties.

40 2. To ensure the availability of emergency medical services to inmates
41 in all counties by contracting with the closest medical facility that offers
42 emergency treatment and stabilization.

43 AA. The department of environmental quality is exempt from the
44 provisions of this chapter for contracting for procurements relating to the
45 water quality assurance revolving fund program established pursuant to title

1 49, chapter 2, article 5. The department shall engage in a source selection
2 process that is similar to the procedures prescribed by this chapter. The
3 department may contract for remedial actions with a single selection process.
4 The exclusive remedy for disputes or claims relating to contracting pursuant
5 to this subsection is as prescribed by article 9 of this chapter and the
6 rules adopted pursuant to that article. All other procurement by the
7 department shall be as prescribed by this chapter.

8 BB. The motor vehicle division of the department of transportation is
9 exempt from the provisions of this chapter for third party authorizations
10 pursuant to title 28, chapter 13, only if all of the following conditions
11 exist:

12 1. The division does not pay any public monies to an authorized third
13 party.

14 2. Exclusivity is not granted to an authorized third party.

15 3. The director has complied with the requirements prescribed in title
16 28, chapter 13 in selecting an authorized third party.

17 CC. This section does not exempt third party authorizations pursuant
18 to title 28, chapter 13 from any other applicable law.

19 DD. The state forester is exempt from the provisions of this chapter
20 for purchases and contracts relating to wild land fire suppression and
21 pre-positioning equipment resources and for other activities related to
22 combating wild land fires and other unplanned risk activities, including
23 fire, flood, earthquake, wind and hazardous material responses. All other
24 procurement by the state forester shall be as prescribed by this chapter.

APPROVED BY THE GOVERNOR APRIL 11, 2001.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 12, 2001.

Passed the House April 02, 20 01,

by the following vote: 58 Ayes,

0 Nays, 2 Not Voting

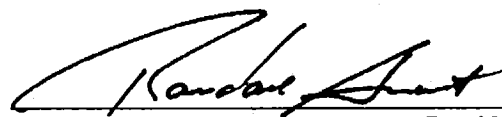

Speaker of the House

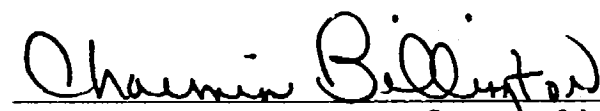

Chief Clerk of the House

Passed the Senate February 28, 20 01,

by the following vote: 22 Ayes,

8 Nays, 0 Not Voting


President of the Senate


Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

 day of , 20 ,

at o'clock M.

Secretary to the Governor

Approved this day of

 , 20 ,

at o'clock M.

Governor of Arizona

S.B. 1272

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this day of , 20 ,

at o'clock M.

Secretary of State

SENATE CONCURS IN HOUSE
AMENDMENTS AND FINAL PASSAGE

Passed the Senate April 5, 2001,
by the following vote: 27 Ayes,

2 Nays, 1 Not Voting

Robert Mont
President of the Senate
Norma Lovel
Asst. Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

5 day of April, 2001,

at 1:07 o'clock P M.

Sandra Chaney
Secretary to the Governor

APPROVED THIS 11th day of

April, 2001,

at 1:45 o'clock P M.

Janice K. Hull
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 12 day of April, 2001,

at 3:30 o'clock P M.

Robert Taylor
Secretary of State

S.B. 1272